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T-488 P.008/013 F-387

Serial No. 09/746,232

REMARKS

The Final Office Action mailed June 23, 2006, has been received and reviewed. Claims 15 through 23 were pending in the application. Claims 15, 19-26, 28-32 stand rejected. Claims 16-18, and 27 have been objected to as being dependent upon rejected base claims. The indication of allowable subject matter in such claims is noted with appreciation. Applicants propose to cancel claim 15 and amend claims 16, 17, 19, 27 and 28, and respectfully request reconsideration of the application as proposed to be amended herein.

Allowable Subject Matter/Objections to Claims 16-18 and 27

Claims 16-18 and 27 stand objected to as being dependent upon a rejected base claim, but are indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form. Applicants acknowledge this indication with appreciation and respectfully assert that the claims as proposed to be amended along with all other claims presently under consideration, are in condition for allowance.

Claim 16

Applicants have amended claim 16 into independent form and to include the claim limitations of base claim 15 and any intervening claims. Accordingly, Applicants respectfully request the objection of claim 16 be withdrawn.

Claims 17, 18

Applicants have amended claim 17 into independent form and to include the claim limitations of base claim 15 and any intervening claims. Accordingly, Applicants respectfully request the objection of claim 17 be withdrawn. Claim 18 depends from now-independent and now-allowable claim 17.

Claim 27

Applicants have amended claim 27 into independent form and to include the claim limitations of base claim 15 and any intervening claims. Accordingly, Applicants respectfully request the objection of claim 27 be withdrawn.

35 U.S.C. § 103(a) Obviousness Rejections**Obviousness Rejection Based on U.S. Patent No. 5,889,844 to Kim et al. in view of U.S. Patent No. 6,815,846 to Raleigh et al.**

Claims 15, 19, 25, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim (U.S. Patent No. 5,889,844) in view of Raleigh et al. (U.S. Patent No. 6,815,546).

Applicants respectfully traverse this rejection, as hereinafter set forth.

NOTE: The heading in the Office Action of the rejection of the claims based upon the Kim reference in view of the Raleigh reference recites only a rejection of claims 15, 19, 25 and 27, however, the body of the rejection also includes a rejection analysis of claims 28-32.

Claim 15

Claim 15 has been cancelled without prejudice.

Claims 19 and 25

Claim 19 with claim 25 depending therefrom has been amended to depend from allowable claim 16, now in independent form. The nonobviousness of now-allowable and now-independent claim 16 precludes a rejection of claim 19 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection of now-independent claim 16 and claim 19 which depends therefrom.

Claim 27

Claim 27 was listed as allowable subject matter and was also rejected based upon Kim reference in view of the Raleigh reference. Applicants accept that claim 27 is allowable in its presently amended form as an independent claim.

Claims 28-32

Independent claim 28 from which claims 29-32 depend has been amended to include the allowable claim limitations of claim allowable claim 16.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections of claims 29-32 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art reference must teach or suggest all the claims limitations.

Regarding independent claim 28 and claims 29-32 depending therefrom, Applicants have amended independent claim 28 to include claim limitations from allowable claim 16 that the Office Action concedes are not taught or suggested in the cited references.

Therefore, since neither the Kim reference nor the Raleigh reference teach or suggest Applicants' claimed invention as recited in presently amended independent claim 28, these references, either individually or in any proper combination, cannot render obvious, under 35 U.S.C. § 103, Applicants' invention as presently claimed in amended independent claim 28. Accordingly, Applicants respectfully request the rejection of presently amended independent claim 28 be withdrawn.

The nonobviousness of independent claim 28 precludes a rejection of claims 29-32 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claim 28 and claims 29-32 which depend therefrom.

Obviousness Rejection Based on U.S. Patent No. 5,889,844 to Kim et al. in view of U.S. Patent No. 6,815,546 to Raleigh et al. and further in view of U.S. Patent No. 6,078,570 to Czaja et al.

Claims 20-24, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim (U.S. Patent No. 5,889,844) in view of Raleigh et al. (U.S. Patent No. 6,815,546) and further in view of Czaja et al. (U.S. Patent No. 6,078,570). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 20

Claim 20 depends from claim 19 which further depends from now-independent and now-allowable claim 16. The nonobviousness of now-independent and now-allowable claim 16 precludes a rejection of claim 20 which at least indirectly depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03.* Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection of dependent claim 20 which depends from now-independent and now-allowable claim 16.

Claims 21-24 and 26

Claim 21 depends from claim 19 which further depends from now-independent and now-allowable claim 16. Claims 22-24 and 26 at least indirectly depend from claim 21. The nonobviousness of now-independent and now-allowable claim 16 precludes a rejection of claims 21-24 and 26 which at least indirectly depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03.* Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection of dependent claims 21-24 and 26 which depend from now-independent and now-allowable claim 16.

ENTRY OF AMENDMENTS

The proposed cancellation of claim 15 and proposed amendments to claims 16, 17, 19, 27 and 28 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application. Further, the amendments do not raise new issues or require a further search. Finally, if the Examiner determines that the amendments do not place the application in condition for allowance, entry is respectfully requested upon filing of a Notice of Appeal herein.

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CONCLUSION

Claims 16-32 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

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